

REMARKS

Claims 1-52 were pending in this application. No claims were added or canceled. Hence, claims 1-52 remain pending in this application.

Claims 1-12, 15-23, 26-31, 34-42, 44-48 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Summit Travel Group (a collection of articles cited in PTO-892, Items: U and V, hereinafter referred to as "STG"), in view of Connolly et al (PTO-892, Items: WW hereinafter referred to as "Conolly").

The Examiner has stated that STG teaches Summit Travel Group as the world's largest travel consortium. The Examiner also states that STG teaches:

Populating a digital repository with data relating to members of a consortium: Inherent in STG are the structures necessary to populate a digital repository with data relating to members of a consortium.

Populating the digital repository with data relating to a product of interest to consumers: Inherent in STG are the structures necessary to populate a database with data relating to a travel product or service of interest to consumers.

Providing a consumer with access to the digital repository via a wide area network.

Identifying the product as being of interest to the consumer: Inherent in STG are the structures necessary to identify the product as being of interest to the consumer.

Generating a lead: Inherent in STG are the structures necessary to permit the generation of a lead and product identifying information.

Internet and protocol: Inherent in STG are the structures necessary to permit use of an Internet protocol.

Providing consumer with direct access to member.

Providing special promotions.

Providing geographic specific: Inherent in STG are the structures necessary to permit providing geographic information.

Computer program product: Inherent in the computer-based system of STG are the structures necessary to store a plurality of computer code necessary for execution on a computer.

Manager of the consortium.

Bulletin Board communication.

Member communications.

Providing a tool.

Searching for member.

Collateral material: Inherent in STG are the structures necessary to permit ordering of any available travel industry collateral material from a relevant source.

Dynamic link library: Inherent in STG are the structures necessary to permit dynamic link library functions.

According to the Examiner, STG does not specifically disclose forwarding the lead generated to a member. Connolly teaches consumers using the Internet to learn about travel and travel-related services, travel agents, intermediaries, and using the Internet as a distribution channel. Connolly teaches referral systems and booking systems and further teaches interactive marketing and promotional applications enabling planners and hotels to share information and sales leads. The Examiner feels it would have been obvious to modify the system of STG to forward a lead as taught by Connolly, in order to fulfill a consumer's travel related request, and thereby attract consumers to the service. The same rationale is used to reject claims 1-12 and 35 and 36-42, 44-48 and 51.

This rejection is respectfully traversed.

Independent claim 1 is directed to a computer implemented system for administering a distribution channel for the promotion and sale of a product having a digital repository, a processor, a computer readable medium, a member management mechanism, a product management mechanism, a consumer interface mechanism, and a lead generating mechanism.

Similarly, claim 15 is directed to a method for administering a distribution channel for the promotion and sale of a product. The steps of the method include populating a digital repository, providing a consumer with access to the digital repository, identifying the product of interest, generating a lead and forwarding the lead.

Claim 35 recites a system for administering a distribution channel for the promotion and sale of a product. The system comprises means for populating a digital repository, means for providing a consumer with access to the digital repository, means for identifying the product of interest, means for generating a lead and means for forwarding the lead with data relating to members of a consortium, the consortium forming a part of the distribution channel.

Finally, claim 36 recites a computer program product comprising a computer storage medium, a computer program code, and a first, second, third, fourth, fifth and sixth, computer code device.

In contrast to the Examiner's assertion, the articles of STG do not disclose, teach or enable any of the claim limitations. It appears to Applicant that the Examiner merely projects his personal knowledge on the STG articles to state that the recited limitations are inherent within the articles. The STG articles generally discuss becoming an independent travel consultant for a travel consortium (STG). The articles give no details on any computer system, methods used for administering a distribution channel, system for for administering a distribution channel, or a computer program product. Because the Examiner has relied on his personal knowledge, Applicant wishes the Examiner to supply an affidavit to support his findings.

37 C.F.R. 1.104(d)(2) states when a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (emphasis added)

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) Accordingly, it appears the Examiner relies

upon his personal, but unenunciated, knowledge to provide such required “basis in fact and/or technical reasoning.”

The STG articles give an overall description of a travel website, there are no specifics of the computer related entities and programs necessary to produce the website. Connolly does not correct the deficiencies of STG, therefore, the claims are patentable over STG in view of Connolly.

As for dependent claims 2-14, 16-34, and 37-52, although they may recite independently allowable subject matter, these claims depend from claims 1, 15, 35, and 36, respectively, and are therefore allowable for at least the same reasons. Accordingly, withdrawal of the rejection against the dependent claims is respectively requested.

Claims 13, 14, 24, 25, and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over STG and Connolly further in view of Official Notice (admitted prior art first cited in Paper #3, regarding old and well known in the arts, referred to as “ON1”).

This rejection is respectfully traversed.

In contrast to the Examiner’s assertion, the articles of STG do not disclose, teach or enable any of the claim limitations. It appears to Applicant that the Examiner merely projects his personal knowledge on the STG articles to state that the recited limitations are inherent within the articles. The STG articles generally discuss becoming an independent travel consultant for a travel consortium (STG). The articles give no details on the computer system, methods used for administering a distribution channel, system for administering a distribution channel, or a computer program product. Because the Examiner has relied on his personal knowledge, Applicant wishes the Examiner to supply an affidavit to support his findings.

The STG articles give an overall description of a travel website, there are no specifics of the computer related entities and programs necessary to produce the website. Connolly and ON1 do not correct the deficiencies of STG, therefore, the claims are patentable over STG in view of Connolly and ON1.

Claims 32, 33, 49, 50 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over STG and Connolly, as applied to claims 15 and 36, further in view of Borcover (Paper #3, PTO-892, Item:X).

This rejection is respectfully traversed.

In contrast to the Examiner’s assertion, the articles of STG do not disclose, teach or enable any of the claim limitations. It appears to Applicant that the Examiner merely projects his

personal knowledge on the STG articles to state that the recited limitations are inherent within the articles. The STG articles generally discuss becoming an independent travel consultant for a travel consortium (STG). The articles give no details on the computer system, methods used for administering a distribution channel, system for for administering a distribution channel, or a computer program product. Because the Examiner has relied on his personal knowledge, Applicant wishes the Examiner to supply an affidavit to support his findings.

The STG articles give an overall description of a travel website, there are no specifics of the computer related entities and programs necessary to produce the website. Connolly and Borcover do not correct the deficiencies of STG, therefore, the claims are patentable over STG in view of Connolly and Borcover.

37 C.F.R. 1.104(c)(2) requires the Examiner to designate the particular part of the reference relied upon. The Examiner has failed to so point out any part of the STG papers which disclose or teach any, much less all, of the claimed limitations. Each of the Examiner's rejections fail in this respect and therefore, the Examiner has failed to present a prima facie case of unpatentability.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated:

December 27, 2005

Respectfully submitted,

By *C M Pielech*

Constance M. Pielech

Registration No.: 46,991

Baker & McKenzie LLP

Pennzoil Place, South Tower

711 Louisiana, Suite 3400

Houston, TX 77002

(713) 427-5003

(713) 427-5099 (fax)